

Remarks

This Application has been carefully reviewed in light of the Office Action mailed December 9, 2004 containing a restriction requirement. Applicants provisionally elect with traverse to prosecute Claims 1-13 and 27-29 (Examiner's Group I). Applicants have withdrawn Claims 14-26 without prejudice or disclaimer; however, Applicants respectfully request that if the Examiner withdraws the restriction with respect to any non-elected claims, the Examiner reinstate those claims. Applicants respectfully request reconsideration of the restriction requirement in view of the following remarks.

I. The Restriction Requirement

The Examiner requires restriction to one of the following groups (*see* Office Action, page 2):

- I. Claims 1-13 and 27-29 "drawn to an electronic shopping system comprising an arrangement for presenting item descriptions, classified in class 705, subclass 27;" and
- II. Claims 14-26 "drawn to a method of business comprising generic or non-electrical computing, classified in class 705, subclass 500."

Applicants respectfully traverse the restriction requirement. There are two criteria for a proper requirement for restriction between patentably distinct inventions: (1) the inventions must be independent or distinct as claimed; *and* (2) there must be a serious burden on the Examiner if restriction is not required. M.P.E.P. § 803. Applicants respectfully submit that neither of these two criteria has been satisfied.

II. Groups I and II Should be Examined in a Single Application

First, Applicants respectfully submit that the inventions in Groups I and II are neither independent nor distinct. The term "independent" means that there is no disclosed relationship between the two or more subjects disclosed, that is, they are unconnected in design, operation, or effect. M.P.E.P. § 802.01. The claims of Groups I and II clearly recite substantially similar limitations. For example, each element of the method recited in Claim 14 is recited substantially identically in Claim 1 as being performed by the one or more processors. Also, the Specification discloses relationships among the subjects of Groups I

and II. (*See, e.g.*, Page 62, Line 5 through Page 66, Line 12). Thus, the inventions are not independent. The term "distinct" means that two or more subjects as disclosed are related, but are capable of separate manufacture, use, or sale as claimed, and are patentable, that is, novel and unobvious, over each other. M.P.E.P. § 802.01. The claims of Groups I and II clearly recite substantially similar limitations, as shown above. Applicants respectfully submit that the Examiner would not consider the claims of either of Groups I and II to be novel and unobvious over the other. By example, if a prior art reference disclosed the subject matter of Claim 1 of Group I in its entirety, Applicants respectfully submit that the Examiner would not consider Claim 14 of Group II novel and unobvious over that reference. Thus, the inventions are not distinct.

Second, Applicants respectfully submit that the search and examination of the Application may be made without serious burden on the Examiner since the claims of Groups I and II clearly recite substantially similar limitations, as shown above. "If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." M.P.E.P. § 803.

Although Applicants appreciate the opportunity to obtain multiple patents for the present invention, in light of the substantial similarities among the claims, as discussed above, and the substantial costs associated with prosecuting multiple applications, Applicants must respectfully traverse the Examiner's restriction. Accordingly, Applicants respectfully request reconsideration and withdrawal of the restriction requirement and examination of all pending claims together in this Application. Applicants reserve the right to petition the restriction requirement if the restriction requirement is made final.

III. No Waiver

All of Applicants' arguments and amendments are without prejudice or disclaimer. By not responding to additional statements made by the Examiner, Applicants do not necessarily acquiesce to the Examiner's additional statements.

Conclusion

Applicants believe this case is in condition for allowance. For at least the foregoing reasons, Applicants respectfully request early and favorable action in this case, including the full allowance of all pending claims.

If the Examiner believes a telephone conference would advance prosecution of this case in any way, the Examiner is invited to contact Christopher W. Kennerly, the Attorney for Applicants, at the Examiner's convenience at (214) 953-6812.

Applicants believe that no fees are due. However, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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